



7020-02

INTERNATIONAL TRADE COMMISSION

Investigation No. 337-TA-803

CERTAIN DYNAMIC RANDOM ACCESS MEMORY AND NAND FLASH MEMORY DEVICES AND PRODUCTS CONTAINING SAME

COMMISSION DETERMINATION NOT TO REVIEW INITIAL DETERMINATIONS TERMINATING THE INVESTIGATION AS TO ALL REMAINING RESPONDENTS; TERMINATION OF THE INVESTIGATION

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review initial determinations (“IDs”) (Order Nos. 70, 71, and 72) of the presiding administrative law judge (“ALJ”) terminating the above-captioned investigation as to all remaining respondents based on settlement and license agreements. The remaining respondents included the following: Acer Inc. of Taipei, Taiwan; Acer America Corp. of San Jose, California; ADATA Technology Co., Ltd. of New Taipei City, Taiwan; ADATA Technology (U.S.A.) Co., Ltd. of Hacienda Heights, California; Asustek Computer Inc. of Taipei City, Taiwan; Asus Computer International Inc. of Fremont, California; Dell, Inc. of Round Rock, Texas; Hewlett-Packard Company of Palo Alto, California; Kingston Technology Co., Inc. of Fountain Valley, California; Logitek International S.A. (“LISA”) of Vaud, Switzerland; Logitech, Inc. of Fremont, California; Best Buy Co., Inc. of Richfield, Minnesota; and Wal-Mart Stores, Inc. of Bentonville, Arkansas (collectively, “the remaining respondents”); Elpida Memory, Inc. of Tokyo, Japan and Elpida Memory (USA) of Sunnyvale, California (collectively, “Elpida”); and SK Hynix Inc. (f/k/a Hynix Semiconductor Inc.) of Gyeonggi-do, Korea and Hynix Semiconductor America, Inc. of San Jose, California (collectively, “Hynix”).

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 7, 2011, based on a complaint filed on behalf of the following complainants: Intellectual Ventures Management, LLC; Invention Investment Fund I, L.P.; Invention Investment Fund II, LLC; Intellectual Ventures I LLC; and Intellectual Ventures II LLC, all of Bellevue, Washington. 76 *Fed. Reg.* 55417-18. The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain dynamic random access memory and NAND flash memory devices and products containing same by reason of infringement of certain claims of U.S. Patent Nos. 5,654,932; 5,963,481; 5,982,696; 5,500,819; and 5,687,132. The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named twenty-one respondents which included the following: Nanya Technology Corporation of Taoyuan, Taiwan and Nanya Technology Corporation, USA of Santa Clara, California (collectively, "Nanya"); Pantech Co.,

Ltd. of Seoul, Korea and Pantech Wireless, Inc. of Atlanta, Georgia (collectively, “Pantech”); Elpida; Hynix; Acer Inc.; Acer America Corp.; ADATA Technology Co., Ltd.; ADATA Technology (U.S.A.) Co., Ltd.; Asustek Computer Inc.; Asus Computer International Inc.; Dell, Inc.; Hewlett-Packard Company; Kingston Technology Co., Inc.; LISA; Logitech, Inc.; Best Buy Co., Inc.; and Wal-Mart Stores, Inc.

On December 30, 2011 and July 26, 2012, respectively, the Commission issued notices of its determinations not to review the ALJ’s IDs (Order Nos. 18 and 58) terminating the investigation as to Pantech and Nanya based on settlement agreements. On September 20, 2012, the Commission issued notice of its determination not to review the ALJ’s ID (Order No. 66) granting LISA’s motion for summary determination of non-importation.

On September 20, 2012, Hynix and complainants moved to terminate Hynix from the investigation based on a license agreement. On October 5, 2012, Elpida and complainants moved to terminate the investigation as to Elpida based on a license agreement. Finally, on October 9, 2012, complainants and the remaining respondents moved to terminate the investigation as to the remaining respondents based on settlement agreements. The Commission investigative attorney filed responses supporting each motion. No party opposed the motions.

The ALJ issued the subject IDs (Order Nos. 70, 71, and 72) on November 7 and November 8, 2012, granting the motions for termination of the investigation as to Hynix, Elpida, and the remaining respondents. He found that the motions satisfy Commission rules 210.21(a)(2) and (b)(1). He further found, pursuant to Commission rule 210.50(b)(2), that termination of this investigation as to Hynix, Elpida, and the remaining respondents is in the public interest. No party petitioned for review of the IDs.

The Commission has determined not to review the IDs, and has terminated the investigation.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in sections 210.21 and 210.42(h) of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.21, 210.42(h)).

By order of the Commission.

Lisa R. Barton
Acting Secretary to the Commission

Issued: December 7, 2012

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